

Exhibit 104

United States of America ex rel. Ven-a-Care of the Florida Keys, Inc. v. Boehringer Ingelheim Corp. et al.
Civil Action No. 07-10248-PBS

Exhibit to the August 28, 2009 Declaration of James J. Fauci In Opposition To
Corrected Boehringer Ingelheim Corporation and Boehringer Ingelheim Pharmaceuticals, Inc.
Local Rule 56.1 Statement of Undisputed Material Facts
in Support of Their Motion For Summary Judgment

Bob Eggers
Distribution Workshop

Workshop Tools

- Reimbursement
- DEA 222 Form
- Trade Launch & Deal

Reimbursement

- | | |
|--|--|
| • Definitions | • Reimbursement AWP Less Dispensing Fee Patient Copay Generic vs Brand |
| • Patient Payment Types Cash Medicaid Third Party | • Roxicodone Model |

Reimbursement Definitions

- Wholesale Acquisition Cost (WAC)
- Average Wholesale Price (AWP)
- Contract Price
- AWP Spread
- AWP Less %

WAC

(Wholesaler Acquisition Cost)

The published price the wholesaler or direct purchasing account pays to the manufacturer for a product.

| | |
|-----------------------|----------|
| Roxicodone 15mg 100's | \$55.00 |
| Roxicodone 30mg 100's | \$106.00 |
| Roxicodone 5mg 100's | \$31.04 |

AWP

(Average Wholesale Price)

An arbitrary price attributed to a product by a manufacturer or an independent source; often 20-25% above wholesale acquisition cost (WAC).

| | |
|-----------------------|----------|
| Roxicodone 15mg 100's | \$110.00 |
| Roxicodone 30mg 100's | \$212.00 |
| Roxicodone 5mg 100's | \$31.04 |

Contract Price

Price that an account pays that is below the WAC.
Sometimes associated w/ a brand purchase,
almost always associated w/ a generic purchase.

| | |
|-----------------------|---------|
| Roxicodone 15mg 100's | None |
| Roxicodone 30mg 100's | None |
| Roxicodone 5mg 100's | \$16.00 |

AWP Spread

Difference between AWP and the actual acquisition cost.

Acquisition cost is usually WAC for a brand.

Acquisition cost is usually a contract price for a generic.

| | |
|-----------------|------------|
| Roxicodone 15mg | 50% Spread |
| Roxicodone 30mg | 50% Spread |
| Roxicodone 5mg | 48% Spread |

AWP Less %

Percentage discount off AWP that a Pharmacy is paid by a third party as compensation for dispensing a prescription to one of its plan participants.

Usually AWP less 8-15% for brand

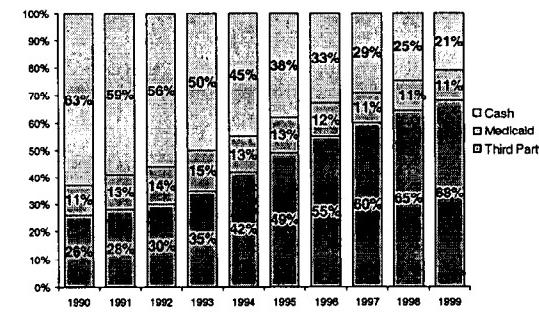
Usually AWP less 20-50% for generics

| | |
|-----------------|---------|
| Roxicodone 15mg | Brand |
| Roxicodone 30mg | Brand |
| Roxicodone 5mg | Generic |

How is the Prescription Paid For?

- Cash
- Medicaid
- Third Party

Patient Rx Payment Type 1990 to 1999



Patient Prescription Payment Cash

- Patient pays out of their own pocket
- Patient's Rx price usually mark-up from AWP
- Pharmacy's most profitable Rx sale

Patient Prescription Payment Medicaid

- a.k.a. Welfare
- Patient pays no to small percentage of cost e.g. co-pay
- Pharmacy paid by state at:
 1. Maximum Allowable Cost (MAC) for some generics
 2. AWP less % for brand & some generics

Patient Prescription Payment Third Party

- a.k.a. Managed Care, Insurance
 - Patient pays a cash copay
 - Pharmacy receives AWP less a % plus a fixed dispensing fee
 - % off is negotiated w/ plan
 - % varies for brand vs generic

Definitions & Payment Types: Why Important?

Drives The Pharmacy's Profitability on Each Script &

Determines Whether They Will Substitute

Pharmacy Reimbursement Formula

AWP - % + Dispensing Fee* = Rx \$ Revenue

Rx \$ Revenue - Acquisition Cost = Rx \$ Profit**

* Dispensing Fee the same if generic or brand

** Acquisition Cost may be WAC or Contract Price

Roxicodone Reimbursement Model

What Does This Mean for Roxicodone 15mg & 30mg

Typically **More Profitable** to Dispense
Roxicodone **15mg & 30mg**

****Pharmacy Won't Change Script to 5mg**

****Pharmacy May Proactively Change 5mg Scripts
to 15mg or 30mg**

DEA Form-222

- Definition
 DEA
 DEA #
 222 Form
 - Paper Flow
 - How To Fill Out
 - 222 Organizer

**Drug Enforcement Agency
(DEA)**

- *Division of Dept of Justice
- *Enforces Controlled Substance Act
- *Determine Abuse Potential & Assign Schedule I-V
- Regulate Who Can Prescribe & Dispense Schedule II-V
- *Not Part of the Food & Drug Administration

**DEA Registration No.
BD5579783**

- Issued to a business at a specific location
- Unique 2 character and 7 digit number
- First character designates type of practice Pharmacies always start w/ B
- Second character is first initial of name Dug Emporium is BD
- Verify authenticity
last digit = $1+3+5 + (2+4+6)*2$
 $19 + (22)*2 = 63$

DEA Form-222

A sequentially numbered, partially pre-printed triplicate from which to track the purchase or sale of CII's to non-end users.

**How To Fill Out
A
DEA Form-222**

222 Organizer

**Wholesale
NA Responsibility**

| Wholesaler | NA Manager | Wholesaler | NA Manager | Wholesaler | NA Manager |
|------------|------------|---------------------|------------|---------------------|------------|
| AmerSource | Gordon | Diversified | Hawthorne | McCueary | Doan |
| James | Carl-Hall | Dixon-Shane | Gordon | Miami-Lukens | Hawthorne |
| Bellamy | Doan | DMS | Hawthorne | Morris & Dixon | Doan |
| Bellco | Kulner | F-Dohman | Tavolaro | NC Mutual | Doan |
| Bergen | Carl-Hall | FW Kerr | Hawthorne | Remo | Kulner |
| Bindley | Hawthorne | G & G | Kulner | Rochester Drug Coop | Kulner |
| Buntington | Kulner | Hanard | Doan | Smith Drug | Doan |
| Capital | Hawthorne | HD Smith | Tavolaro | Valley Drug | Snyder |
| Cardinal | Snyder | King Drug | Doan | Valley Wholesale | Carl-Hall |
| D & K | Via | Kinray | Kulner | Value Drug | Kulner |
| Dakota | Tavolaro | Louisiana Wholesale | Doan | Walsh | Doan |
| Dik Drug | Hawthorne | M. Sobot | Kulner | Walsh Dohman | Doan |
| | | McKesson | Carl-Hall | | |

What Have Addressed So Far?

Third Party Profitability: Want To Dispense
 CII Administrative Obstruction: DEA Form-222

But Why Should They Stock It Initially?

An Enormous Financial Incentive

Wholesaler

- Purchasing Allowance 3% OI
- Extra 60 Days Dating
- Distribution Allowance \$5/bottle
- Total value \$5+ per bottle sold

Why Important?

Some wholesalers will pass part or all of their purchase allowance and/or part or all of their distribution allowance to the Pharmacies they service for a period of time

Wholesaler Pass-Thru Worksheet

| Roxane 15mg | Wholesaler | Wholesaler | Wholesaler | Wholesaler | Wholesaler | Wholesaler | Wholesaler | Time Frame |
|-------------|------------|------------|---------------|---------------|--------------|---------------|---------------|------------|
| | 1mg | Purchase | Purch. Allow. | Purch. Allow. | Distribution | Distr. Allow. | Distr. Allow. | |
| | Spec'd | Allowance | Entire | Entire | Entire | Entire | Entire | Pass-Thru |
| Amidex | NA Manager | | | | | | | |
| Amidex | Gordon | \$1.65 | | | | | | |
| Barnes | San Hall | \$1.65 | | | | | | |
| Bellamy | Dean | \$1.65 | | | | | | |
| Bolton | Lubin | \$1.65 | | | | | | |
| Burgess | San Hall | \$1.65 | | | | | | |
| Bindley | Henderson | \$1.65 | | | | | | |
| Buckley | Judson | \$1.65 | | | | | | |
| Capital | Henderson | \$1.65 | | | | | | |
| Cardinal | Snyder | \$1.65 | | | | | | |
| O & K | Via | \$1.65 | | | | | | |
| Chakka | Tindale | \$1.65 | | | | | | |
| One Drug | Henderson | \$1.65 | | | | | | |
| One Health | Alford | \$1.65 | | | | | | |
| One State | Gordon | \$1.65 | | | | | | |
| OMS | Henderson | \$1.65 | | | | | | |

Enormous Profitability on Initial Stocking

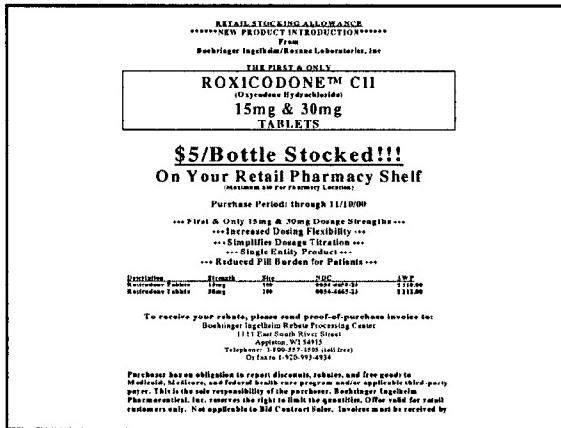
- All or Part of Wholesaler Purchase Allowance
- All or Part of Wholesaler Distribution Allowance
- ALL of Retail Stocking Allowance from Roxane

Retail Stocking Allowance

- All Retail Pharmacies
- Stocking Allowance \$5/bottle
- Invoiced by 11/10/00
- Maximum \$10 per Pharmacy location

Retail Stocking Allowance

- \$10 maximum per pharmacy location
- Total 2 bottles
- Same strength or combination
- Fax or mail invoice
- Can use pre-printed PharmAlert envelope
- Receive a check



Insert PharmAlert letter here!!

Maximum Potential Stocking Discount: 15mg

| | |
|--|------------------------|
| WAC | \$55.00 |
| Wholesaler Purch. Allow. Pass | (\$1.65) |
| Wholesaler Distr. Allow. Pass | (\$5.00) |
| <u>RLI Retail Stocking Allow.</u> | <u>(\$5.00)</u> |
| Net Price | \$43.35 |

21% Discount to WAC!

Maximum Potential Stocking Discount: 30mg

| | |
|--|------------------------|
| WAC | \$110.00 |
| Wholesaler Purch. Allow. Pass | (\$3.30) |
| Wholesaler Distr. Allow. Pass | (\$5.00) |
| <u>RLI Retail Stocking Allow.</u> | <u>(\$5.00)</u> |
| Net Price | \$96.70 |

12% Discount to WAC!

What Have We Learned? Reimbursement

- On AWP less % third party script, Roxicodone 15mg & 30mg is (in the worse case scenario) comparable on mg to mg basis w/ 5mg generics.
- 15mg & 30mg will usually be more profitable
- No incentive for RPh to substitute generics
- Incentive for RPh to substitute 15mg & 30mg for generic 5mg tabs.

What Have We Learned? DEA Form-222

- Paperwork is Not Formidable
- NDC Inclusion is Beneficial & Would Promote Wholesaler Stocking

What Have We Learned? The Stocking Plan

- Wholesaler May Pass Some or All of Their Purchasing Allow. &/or Distribution Allowance.
- RLI Providing a Retail Stocking Allowance in Addition to Anything Wholesaler Provides
- Additional Profit To Be Had by RPH Who Stocks by 11/10/00.